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| 10/752,651 | 01/07/2004 | Richard C. Fuksa | 926512-101092 | 4106 |
| 23644 7590 02/22/2008 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786 | | | EXAMINER SCHNEIDER, CRAIG M | |
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67

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/752,651
Filing Date: January 07, 2004
Appellant(s): FUKSA ET AL.

**MAILED
FEB 21 2008
GROUP 3700**

James B. Conte
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/13/07 appealing from the Office action
mailed 2/15/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. There have not been any amendments filed after final rejection.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

GROUND OF REJECTION NOT ON REVIEW

The following grounds of rejection have not been withdrawn by the examiner, but they are not under review on appeal because they have not been presented for review in the appellant's brief. The appellant has not requested that the grounds of rejection for claims 4-8 be reviewed per the appeal brief. The appellant is stating that if claim 1 is

deemed to be improperly rejected then claims 4-8 should be allowed (found in the Argument section of the Appeal Brief).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| | | |
|--------------|------------------|---------|
| 3,621,868 | WISE | 11-1971 |
| 6,267,527 | MILLER | 7-2001 |
| 2003/0181560 | KAWAGUCHI ET AL. | 9-2003 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wise (3,621,868) in view of Miller (6,267,527).

Wise discloses a valve pin insert (32) in combination with a valve plate, the pin insert having a body inserted into a valve plate (26) as seen in Figures 3 and 4 (col. 2, lines 10-12) and in the insert position, the valve pin insert is fixedly connected to the first member; the valve pin insert is coupled to a valve (33), the valve moveable relative to the valve plate member (col. 2, lines 18-28). Wise does not disclose a valve pin insert wherein the body has a lower shank at one end of the body and an upper shank adjacent to the lower shank, the lower shank being of a first diameter and the upper shank being of a second diameter, the first diameter being less than the second diameter and wherein between the lower shank and the upper shank of the body an undercut shoulder forms a recess opening in the direction toward the lower shank, the

Art Unit: 3751

recess forming a tooth that shears material of the valve plate as the pin is inserted into a hole in the valve plate and wherein the valve pin insert has an insert position, wherein when in the insert position, the upper and lower shank are disposed in the valve plate. Miller discloses a dowel (10) that has a lower shank at one end of the body and an upper shank adjacent to the lower shank as seen in Figure 4B col. 3, lines 23-25), the lower shank being of a first diameter and the upper shank being of a second diameter, the first diameter being less than the second diameter and wherein between the lower shank and the upper shank of the body an undercut shoulder forms a recess opening in the direction toward the lower shank, the recess forming a tooth that shears material as the dowel is inserted into a hole as seen in Figure 4B and wherein the valve pin insert has an insert position, wherein when in the insert position, the upper and lower shank are disposed in the valve plate. The diameter of the lower shank is less than the diameter of the hole in the valve plate. The diameter of the hole of the valve plate must be larger than the dowel when the dowel is inside the hole.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the dowel construction of Miller onto the valve pin of Wise, in order to have a quick and easy connection (abstract of Miller).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wise and Miller as applied to claim 1 above, and further in view of Kawaguchi et al.(2003/0181560).

Wise and Miller disclose all the features of the invention except that the pin is made of PEEK. Kawaguchi et al. discloses the use of PEEK as a corrosion resistant material (page 3, paragraphs 53-55).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the plastic material utilized by Wise and Miller for the PEEK material of Kawaguchi et al., in order to make the plastic more chemical resistant.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wise and Miller as applied to claim 1 above, and further in view of Malloy et al..

Wise and Miller disclose all the features of the claimed invention except that the valve plate is made of plastic. Malloy et al. disclose the use of PTFE for chemical resistance (col.2, lines 57-62).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the PTFE as taught by Malloy et al. onto Wise and Miller, to make the material that the dowel is being inserted into more resistant to chemicals.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wise and Miller as applied to claim 1 above, and further in view of Runge.

Wise and Miller disclose all the features of the claimed invention except that the undercut- shoulder is molded into the pin, Runge discloses that the dowel is molded (col. 2, lines 58-68 onto col. 3, lines 1-2 and in claim 4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to mold the entire pin of Wise and Miller as taught by Runge which would include the undercut shoulder, in order to decrease manufacturing cost.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wise and Miller as applied to claim 1 above, and further in view of Kindt.

Wise and Miller disclose all the features of the claimed invention except that the undercut shoulder is machined into the pin. Kindt discloses machining of a portion of the dowel below a flange (col. 2, lines 4-8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the undercut shoulder of Wise and Miller machined as is the area below the flange of Kindt, in order to make sure that the valve pin insert of Wise and Miller is in coaxial alignment of the bored recess in the work.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wise and Miller as applied to claim 1 above, and further in view of Hinkel.

Wise and Miller disclose all the features of the claimed invention except that the undercut shoulder extends to a depth beneath the surface of the lower shank. Hinkel discloses the use of an undercut shoulder extending to a depth beneath the surface of the lower shank as seen in Figure 2b(col. 4, lines 47-67 onto col.5, lines 1-53).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the undercut shoulder of Hinkel onto the valve pin insert of Wise and Miller, in order to create a positive-locking manner.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wise and Miller as applied to claim 1 above, and further in view of Applicant's Exhibit A.

Wise and Miller disclose all the features of the claimed invention except that the pin further comprises a stud extending axially outwardly from the body. Applicant's exhibit A discloses the use of a stud at the end of the dowel as shown in Figure 1.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the stud of Applicant's Exhibit A onto the pin insert of Wise and Miller, in order to attach items to the end of the pin insert.

(10) Response to Argument

The appellant is arguing that the Wise reference is an improper primary reference because it would not be obvious to modify the pin for anything other than a breathing tube check valve and that the pin should only be a cylindrical shank. The appellant is further arguing that the valve pin insert of Wise is subjected to very little stress and therefore does not need to be changed. The examiner would like to remind the appellant that the claim language does not recite the above limitations and further that the above arguments are mere allegations that the valve pin insert of Wise does not need to be altered.

The appellant is arguing that Miller does not have an upper shank and a lower shank but then states that the Miller shank has an upper, middle and lower shank which contradicts the initial statement that Miller does not have an upper and lower shank. The appellant then further clarifies that there is no suggestion that the Miller dowel should only have two sections. The examiner is not suggesting that only two shanks of Miller be used and further there is nothing in the claim that precludes more than two shanks. The appellant is arguing that a drill is needed to drill the hole so the dowel of

Art Unit: 3751

Miller can be used. While the examiner agrees with this statement in regards to the Miller patent, the examiner is using the structure of the dowel of Miller as shown in Figure 4B that exhibits the shanks and how the shanks would shear into the receiving structure to further secure the dowel in the intended structure. The drill that is used to make the hole is an argument that is not directed to the patentability of the claim language. The appellant further argues that the concave step of the Miller dowel would not shear material as it is inserted into the receiving structure. The examiner disagrees with this and points to col. 3, lines 43-46 of the Miller patent in which the dowel can be constructed of metal and asserts that if a metal dowel was inserted into a wood receiving structure that it would shear the wood as it is inserted. The appellant is further arguing that the shank diameter is not smaller than the hole diameter. The examiner disagrees with this because the shank diameter can not be bigger than the hole diameter if the shank is inserted into the hole. The hole has to be bigger than the shank. While the appellant is indicating a disclosure in Miller that supports the argument, the disclosure is before the shank is inserted not after the shank is in place.

The appellant is stating that the 132 declaration by Fuska was disregarded per the examiner. The examiner respectfully disagrees with the above statement and reiterates that the declaration was considered and not disregarded. The declaration was not found persuasive for the reasons stated in the office action of 2/15/07. Fuska did not present factual evidence refuting the rejection but merely presented obviousness conclusions of why it was an improper rejection (paraphrased).

Art Unit: 3751

The appellant is arguing that the Kawaguchi et al. reference fails to disclose the use of a PEEK valve pin insert. The examiner is not utilizing the reference to show a PEEK valve pin insert but simply as a teaching that states PEEK is a plastic that has chemical resistant properties. Since PEEK has chemical resistant properties then it would be obvious to use PEEK as a valve pin insert.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

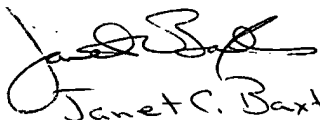
/Craig M Schneider/

Examiner, Art Unit 3753

Conferees:

/Gregory L. Huson/

Supervisory Patent Examiner, Art Unit 3751


Janet C. Baxter
TC 3700 TQAS